

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IRA C. HOKE,
Petitioner,

v.

02-CV-0516

DAVID L. MILLER, Superintendent, Eastern Correctional Facility

Respondent.

THOMAS J. McAVOY
United States District Judge

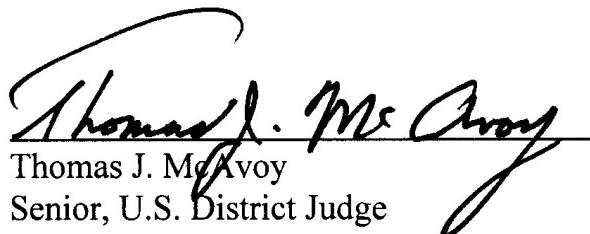
DECISION and ORDER

Plaintiff, Ira C. Hoke, filed a Petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This case was referred to the Hon. Victor E. Bianchini, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Magistrate Judge Bianchini filed his Report-Recommendation on April 25, 2007. Magistrate Judge Bianchini recommended that the action be dismissed because the Petition had not stated grounds for relief under 28 U.S.C. § 2254. Magistrate Judge Bianchini also recommended that this Court not issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(2) because the Petitioner had failed to make a substantial showing of a denial of a constitutional right.

After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein, DISMISSES the petition, and DENIES a certificate of appealability.

IT IS SO ORDERED.

Dated August 4, 2007



Thomas J. McAvoy
Senior, U.S. District Judge